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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

RUSSELL & MICHELLE HARTLEY,

Plaintiffs,

vs.

NCO FINANCIAL SYSTEMS, INC.,

Defendant.

Case No.: 11-cv-00897-ST

FIRST AMENDED COMPLAINT;

FAIR DEBT COLLECTION PRACTICES
ACT (15 USC § 1692a, *et seq.*);

DEMAND FOR JURY TRIAL

I. INTRODUCTION

1. This is an action for damages brought by a pair of consumers for Defendant's violations of the federal Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (hereinafter "FDCPA").

II. JURISDICTION

2. Plaintiffs' claim for violations of the FDCPA arises under 15 U.S.C. § 1692k(d), and therefore involves a "federal question" pursuant to 28 USC § 1331.

III. PARTIES

3. Plaintiffs, Russell and Michelle Hartley ("Plaintiffs"), are each a natural person residing in Clackamas County, Oregon.

4. Defendant, NCO Financial Systems, Inc., (“Defendant”) is a corporation engaged in the business of collecting debts by use of the mails and telephone. Defendant regularly attempts to collect debts alleged due another.

IV. FACTUAL ALLEGATIONS

5. Defendant is a “debt collector” as defined by the FDCPA, 15 U.S.C. § 1692a(6).

6. Plaintiffs are each a “consumer” as defined by the FDCPA, 15 U.S.C. § 1692a(3).

7. All activities of Defendant set out herein were undertaken in connection with the collection of a “debt,” as defined by 15 USC § 1692a(5).

8. Within the last year, Defendant took multiple actions in an attempt to collect a debt from Plaintiffs. Defendant’s conduct violated the FDCPA in multiple ways, including the following.

9. Causing Plaintiffs’ telephone to ring repeatedly or continuously with intent to harass, annoy or abuse Plaintiffs. Defendant contacted Plaintiffs repeatedly about a debt allegedly owed by Barrett Hartley. Barrett Hartley does not reside at Plaintiffs’ telephone numbers called and Plaintiffs informed Defendant of this, yet Defendant continued to call repeatedly (§ 1692d(5));

10. Falsely representing the character, amount, or legal status of Plaintiffs’ debt, including representing that Plaintiffs owe a debt they do not owe. Defendants have contacted Plaintiffs on multiple occasions about a debt owed by Barrett Hartley. Despite

Plaintiffs' written and oral disputes of the debt to Defendant and notification to Defendant that Barrett Hartley could not be reached at the telephone numbers called, Defendant continued to contact Plaintiffs' telephone number concerning the debt (§ 1692e(2)(A)).

11. As a result of the aforementioned violations, Plaintiffs suffered and continue to suffer injuries to Plaintiffs' feelings, personal humiliation, embarrassment, mental anguish and severe emotional distress.

12. Defendant intended to cause, by means of the actions detailed above, injuries to Plaintiffs' feelings, personal humiliation, embarrassment, mental anguish and severe emotional distress.

13. Defendant's actions, detailed above, were undertaken with extraordinary disregard of, or indifference to, known or highly probable risks to purported debtors.

14. To the extent Defendant's actions, detailed in paragraphs above, were carried out by an employee of Defendant, that employee was acting within the scope of his or her employment.

COUNT I: VIOLATION OF FAIR DEBT COLLECTION PRACTICES ACT

15. Plaintiffs reincorporate by reference all of the preceding paragraphs.

16. The preceding paragraphs state a *prima facie* case for Plaintiffs and against Defendant for violations of the FDCPA, §§ 1692d and 1692e.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray that judgment be entered against the

Defendant for the following:

- A. Declaratory judgment that Defendant's conduct violated the FDCPA;
- B. Actual damages pursuant to 15 USC 1692k;
- C. Statutory damages pursuant to 15 U.S.C. § 1692k;
- D. Costs, disbursements and reasonable attorney's fees for all successful claims, and any unsuccessful claims arising out of the same transaction or occurrence as the successful claims, pursuant to 15 U.S.C. § 1692k; and,
- E. For such other and further relief as may be just and proper.

PLAINTIFFS HEREBY REQUEST A TRIAL BY JURY

Dated this 23rd day of November, 2011.

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